

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DAVID JOHN BOSHEA,
Plaintiff,

v.

COMPASS MARKETING, INC.,
Defendant

Civil Action No. ELH-21-309

ORDER

On February 5, 2021, plaintiff David John Boshea filed suit against his former employer, Compass Marketing, Inc (“Compass”). ECF 1 (“Complaint”). Boshea alleges that he is entitled to severance pay pursuant to an employment agreement. Therefore, he asserts claims for breach of contract and violation of the Maryland Wage Payment and Collection Act, Md. Code (2016 Repl. Col., 2017 Supp.), §§ 3-501 *et seq.* of the Labor and Employment Article.¹

Defendant answered the suit on May 26, 2021. ECF 14 (“Answer”). Thereafter, Boshea moved to strike defendant’s answer. ECF 16 (“Motion to Strike”). Defendant opposed the Motion to Strike. ECF 19. In addition, Compass recently filed a “Motion for Leave to File an Amended Answer to Plaintiff’s Complaint and Leave to File a Counterclaim and Third Party Complaint.” ECF 23 (“Motion to Amend Answer”).

Plaintiff has also just filed an “Uncontested Motion for Leave to File His Amended Complaint.” ECF 24 (“Motion for Leave”). In the Amended Complaint, plaintiff seeks to “clarify the facts...,” but does not “substantively change” his claims. *Id.* ¶ 5; *see* ECF 24-1 (Amended Complaint); ECF 25 (Redline copy). Notably, defendant does not object to the Motion for Leave.

¹ Jurisdiction is founded on diversity of citizenship. 28 U.S.C. § 1332.

ECF 24, ¶ 7.

Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure permits a party to amend a pleading “once as a matter of course,” without leave of court or the consent of opposing parties, if done within 21 days of receipt of a motion filed under Fed. R. Civ. P. 12(b). Rule 15(a)(2) permits a party to amend its pleading “[i]n all other cases, only with the opposing party’s written consent or the court’s leave.” Defendant consents to the filing of an Amended Complaint. Therefore, I shall grant plaintiff’s Motion for Leave (ECF 24), pursuant to Rule 15(a)(2).

Moreover, the Amended Complaint supersedes and replaces the Complaint, to which the Answer was directed. *See, e.g., Goodman v. Diggs*, 986 F.3d 493, 498 (4th Cir. 2021); *Young v. City of Mount Ranier*, 238 F.3d 567, 573 (4th Cir. 2001). Therefore, in light of the filing of the Amended Complaint, the pending Answer is moot. And, in turn, Boshea’s Motion to Strike the Answer (ECF 16), and defendant’s Motion to Amend the Answer (ECF 23) are also moot.

Accordingly, I shall deny the Motion to Strike (ECF 16) and the Motion to Amend Answer (ECF 23), as moot. Defendant shall answer the Amended Complaint, within 21 days of the date of this Order. Compass may include a counterclaim and/or a third party claim, without prejudice to plaintiff’s right to challenge the filing, to the extent permissible under the law.

SO ORDERED this 5th day of August 2021, by the United States District Court for the District of Maryland.

_____/s/
Ellen L. Hollander
United States District Judge